

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Trustees of the Teamsters Local 456 Pension, Health &)	
Welfare, Annuity, Education & Training, S.U.B. Industry)	
Advancement and Legal Services Funds and the Westchester)	Index # 07-CIV-11190 (WCC)
Teamsters Local Union No. 456,)	
)	
Plaintiffs,)	DEFAULT JUDGMENT
)	
-against-)	
)	
K & D BJORKLAND INDUSTRIES, INC.,)	
)	
Defendant.)	
)	

This action having been commenced on December 12, 2007 with the filing of the summons and complaint and the summons and complaint were served upon the Employer on December 18, 2007 via New York's Secretary of State and proof of such service thereof was filed on December 26, 2007 and the defendant not having appeared, answered or otherwise moved with respect to the Complaint within the time allowed by law, and the time for appearing, answering or otherwise moving having expired it is,

ORDERED, ADJUDGED AND DECREED: that Plaintiffs have judgment against Defendant in the liquidated amount of Forty Six Thousand Three Hundred Fifty Two Dollars and Thirty Two Cents (\$46,352.32) which includes the following: Benefit Fund Contributions due and owing in the sum of \$35,144.00 for the period 3/06, 8/06, 10/06-11/07; plus liquidated damages calculated at 10% of the principal amount owed to the ERISA Benefit Funds in the sum of \$3,514.40; interest at the rate 10% per annum for each delinquent month through to February, 2008 in the sum \$1,951.96; back interest owed for the period 5/06-7/06 in the sum of \$40.36, attorneys' fees calculated at 15% of the principal delinquency amount in the sum of \$5,271.60; plus court costs and disbursements of this action in the sum of \$430.00.

ORDERED, that the Judgment rendered by the Court on this day in favor of the Plaintiffs is entered as a final judgment against Defendant and the Clerk of the Court is directed to enter such judgment forthwith.

Dated: White Plains, New York
 , 2008

So Ordered:

Honorable William C. Conner, U.S.D.J.

CERTIFICATE OF SERVICE

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

Resa Bernardini, being duly sworn, deposes and says:

I am not a party to the within action, am over the age of 18 years and reside at Westchester County, New York. That on February 26, 2008, served a true copy of the Order To Show Cause For Default Judgment, Clerk's Certificate and support documents to the Defendant by mailing a true copy of same enclosed in a post-paid wrapper by certified mail rrr in an official depository under the exclusive care and custody of the United States Postal Service within New York State, addressed as follows:

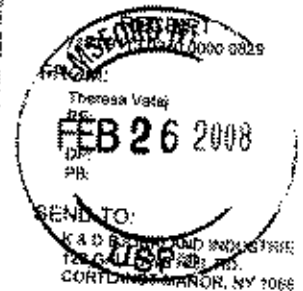
K & D BJORKLAND INDUSTRIES, INC.
129 GALLOW'S HILL ROAD
CORTLANDT MANOR, NY 10667

Resa Bernardini

Sworn to before me this
26th day February, 2008.

Notary Public

Reg No. 02amc612365
My Commission Expires:
3/7/2009



FEES:	
Postage	0.39
Certified Fee	2.40
Return Receipt	1.85
Restricted	

TOTAL \$ 4.64

POSTMARK OR DATE

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Trustees of the Teamsters Local 456 Pension, Health & Welfare, Annuity, Education & Training, S.U.B. Industry Advancement and Legal Services Funds and the Westchester Teamsters Local Union No. 456,)	
)	
)	Index # 07-CIV-11190 (WCC)
)	
Plaintiffs,)	
)	AFFIDAVIT IN SUPPORT
-against-)	OF DEFAULT JUDGMENT
)	
K & D BJORKLAND INDUSTRIES, INC.,)	
)	
Defendant.)	
)	

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

Karin Arrospide, Esq., being duly sworn, deposes and says:

1. I am a member of the bar of this Court and am associated with the firm Barnes, Iaccarino, Virginia, Ambinder & Shepherd, PLLC, as the attorneys of record for the Plaintiffs, Trustees of the Teamsters Local 456 Pension, Health & Welfare, Annuity, Education & Training, S.U.B. Industry Advancement and Legal Services Funds, (hereinafter referred to as the "FUNDS"); and the Westchester Teamsters Local Union No. 456 (hereinafter referred to as the "Union"), in the above entitled action. I am fully familiar with the facts set forth herein, and I submit this Affidavit in support of plaintiffs' entry of Default and Judgment.

2. Plaintiff Funds are jointly administered, multi-employer, labor management employee benefit trust funds established and maintained pursuant to the terms of various collective bargaining agreements and the Labor Management Relations Act of 1947 ("Taft-Hartley Act").

3. Defendant K & D BJORKLAND INDUSTRIES, INC., (hereinafter referred to as "the Employer") is an Employer within the meaning of Section 3(5) and 515 of ERISA, 29 U.S.C. Section 1002(5) and 1145, and an Employer in an industry affecting commerce within the meaning of Section 301 of the Taft-Hartley Act, 29 U.S.C. Section 185.

4. This is an action to recover certain delinquent benefit fund contributions owed to the Funds and contributions owed to the Union by the Employer pursuant to a Collective Bargaining Agreement (hereinafter referred to as the "C.B.A.") between the Union and the Employer.

5. Defendant, as party to the C.B.A., is required to remit to the Plaintiffs benefit contributions and reports and is liable for the additional amount of statutory damages, together with attorneys' fees, interest on the unpaid principal, liquidated damages on the ERISA Funds costs and disbursements incurred in the action pursuant to the terms of the C.B.A. and in accordance with Section 502 of ERISA, 29 U.S.C. Section 1132.

6. Jurisdiction of the subject matter of this action is based on the Employee Retirement Income Security Act of 1974, as amended ("ERISA").

7. This action was commenced on December 12, 2007 by the filing of the summons and complaint. The summons and complaint were served upon the Employer on December 18, 2007 via New York's Secretary of State.

8. The Proof of Service was filed with the Clerk of this Honorable Court on December 26, 2007. Copies of the summons, complaint, and proof of service thereof are annexed hereto collectively as Exhibit "A".

9. The defendant has failed and refused to submit benefit fund contributions for the period 3/06, 8/06, 10/06-11/07.

10. Plaintiffs are entitled to damages as follows:

(a) In the minimum sum of \$46,352.32 for the period 3/06, 8/06, 10/06-11/07: (which includes \$35,144.00 in unpaid contributions to the Funds and Union; \$1,951.96 in interest calculated at ten percent (10%) per annum for each delinquent month through February, 2008; \$40.36 in unpaid interest for late contributions owed for the period 5/06-7/06; \$3,514.40 in liquidated damages calculated at 10% of the unpaid principal due; reasonable attorneys' fees in the amount of \$5,271.60 calculated at 15% of the principal amount due; and court costs and disbursements in the amount of \$430.00 pursuant to the

collective bargaining agreement and in accordance with Section 502 (g)(2)(D) of ERISA 29 U.S.C. 1132 (g)(2)(D)).

(b) For such other and further relief as the Court deems appropriate.

WHEREFORE, plaintiffs request the entry of Default and the entry of the annexed Judgment against defendants in the amount of \$46,352.32.

Dated: Elmsford, New York
February 4, 2008



Karin Arrospeide, Esq.(KA9319)
BARNES, IACCARINO, VIRGINIA,
AMBINDER & SHEPHERD, PLLC
258 Saw Mill River Road
Elmsford, New York 10523
(914) 592-1515

Sworn to before me this 4th
day of February, 2008.



Notary Public

CHRISTIE S. ROOS
Notary Public, State of New York
No. 01RO6014276
Qualified in Westchester County
Commission Expires October 5, 2010

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Plaintiffs,)	STATEMENT OF
)	DAMAGES
-against-)	
)	
K & D BJORKLAND INDUSTRIES, INC.,)	
)	
Defendant.)	
)	

Principal Amount Due \$35,144.00
for the period 3/06, 8/06, 10/06-11/07

Interest calculated at (10%) per annum for each delinquent month
through to February, 2008..... \$ 1,951.96

Back Interest owed for the period 5/06-7/06..... \$ 40.36

Liquidated damages calculated at 10% of the ERISA Benefit Funds.....\$ 3,514.40

Attorney's Fees pursuant to the
Collective Bargaining Agreement which is 15% of the Principal
Amount due..... \$ 5,271.60

Court Costs & Disbursements:

Filing Fees (Index).....	\$ 350.00
Process Server Fee.....	\$ 80.00

GRAND TOTAL:..... \$46,352.32

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